

Application No. 10/021,482
Response to OA of 10/20/2004

Remarks

I. Claim Cancellation

In the present response, Applicants have canceled claims 1 – 30 and 37 - 81. Applicants reserve the right to present these canceled claims in a continuing application.

II. Claim Rejections: 35 USC § 103

Claims 31-36 are rejected under 35 USC § 103 as being unpatentable over Ito et al. (USPN 6,302,795, hereinafter Ito) in view of Nakade et al. (US# 2003/0189637 A1, hereinafter Nakade). This rejection is traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicants assert that the rejection does not satisfy these criteria.

References not Teach or Suggest all Claim Limitations

Claim 31

Claim 31 recites numerous limitations that are not taught or suggested in Ito and/or Nakade. For example, claim 31 recites the portable device is **worn on a user**. Ito teaches a portable terminal machine, but not a device worn on the user. Nakade teaches a videophone, but nowhere does Nakade teach or suggest that the videophone is worn on a user.

As yet another example, claim 31 recites a portable device worn on a user “for capturing a **substantially comprehensive record** of an immediate environment of the user.” By contrast, neither Ito nor Nakade teaches or suggests a portable device that is worn on the user for capturing a substantially comprehensive record of an immediate environment of a user. Ito is directed to a data processing system consisting of a video

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game machine and a portable terminal machine that downloads a program from the video game machine (see Col. 4, lines 47-50). Nakade is directed to transmitting images using videophones (see paragraph [0039]). Paragraph [0141] in Nakade does teach "user A captures the scene by a portable terminal device 101." Nowhere, though, does Nakade teach or suggest that device 101 is worn on the user for capturing a **substantially comprehensive record of an immediate environment of a user.**

For at least these reasons, claim 31 is patentable over Ito in view of Nakade. Dependent claims inherit the limitations of a base claim. Thus, for at least the reasons given in connection with independent claim 31, all dependent claims are also allowable over Ito and/or Nakade.

Claim 35

Claim recites numerous limitations that are not taught or suggested in Ito and/or Nakade. For example, claim 35 recites a **wearable device**. Ito teaches a portable terminal machine, but not a wearable device. Nakade teaches a videophone, but nowhere does Nakade teach or suggest that the videophone is wearable.

As another example, independent claim 35 recites a wearable device "for **querying** a substantially comprehensive record of an immediate environment of a user." Words in a claim should be given their ordinary and plain meaning. According to Merriam-Webster online dictionary (<http://www.merriam-webster.com>), the term query and its inflected forms means:

Main Entry: ²**query**

Function: *transitive verb*

Inflected Form(s): **queried; query-ing**

1 : to ask questions of especially with a desire for authoritative information

2 : to ask questions about especially in order to resolve a doubt

3 : to put as a question

4 : to mark with a query

Neither Ito nor Nakade teaches or suggests a wearable device that **queries** a substantially comprehensive record of an immediate environment of a user. Ito is directed to a data processing system consisting of a video game machine and a portable terminal

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machine that downloads a program from the video game machine (see Col. 4, lines 47-50). Nakade is directed to transmitting images using videophones (see paragraph [0039]). Paragraph [0141] in Nakade does teach "user A captures the scene by a portable terminal device 101." Nowhere, though, does Nakade teach or suggest that device 101 queries a substantially comprehensive record of an immediate environment of a user.

For at least these reasons, claim 35 is patentable over Ito in view of Nakade. Dependent claims inherit the limitations of a base claim. Thus, for at least the reasons given in connection with independent claim 35, all dependent claims are also allowable over Ito and/or Nakade.

No Suggestion or Motivation to Combine References

No suggestion exists, either in Ito or Nakade or in knowledge generally available to one of ordinary skill in the art, to modify or combine the references. According to MPEP § 2143.01:

There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.

None of these criteria are satisfied.

Both references are directed to solving completely different problems. Ito is directed to solving the problem of illegally downloading from video games:

In particular, when a program recorded on CD-ROM or other recording media is downloaded from a video game machine, it is difficult to manage this downloading from the video game machine side or from the recording media side, so there is a problem in that a program recorded on a single recording media may be illegally downloaded multiple times.

The present invention came about in light of the aforementioned problems (Col. 1, lines 35-44).

By contrast, Nakade is directed to solving problems of transmitting images via videophones:

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However, as has been the case with the hitherto videophone, against such the communication terminal device, an attention has up to now been paid only to transmitting a live image, in other words, it has been positioned, in most cases, as a dedicated device for transmitting live image.

More specifically, there has been problems that adaptability when a user does not want to transmit, for instance, the live picture is insufficient, in addition to difficulty to use. (See paragraphs [0005-0006]; text omitted).

Further, there is no teaching, suggestion, or motivation to combine the references. In this regard, Ito teaches a portable terminal machine that controls the execution of a downloaded program depending on a usage time limit when a sub program downloaded from a video game machine is stored in the storage device. (See Ito Abstract). By contrast, Nakade teaches transmitting images using videophones (see paragraph [0039]).

Furthermore, the proposed modification would render the prior art being modified unsatisfactory for its intended purpose. Alternatively, the modification or combination of Ito and Nakade would change the principle operation of Ito. Ito is directed to a data processing system consisting of a video game machine and a portable terminal machine that downloads a program from the video game machine (see Col. 4, lines 47-50). Nakade is directed to transmitting images using videophones (see paragraph [0039]). If Ito's video game machine is combined with a videophone, then Ito becomes unsatisfactory for its intended purpose.

III. New Claims

Applicants present new claims 82 – 92 that are directed to portable devices. These new claims have numerous limitations that are not taught or suggested in the art of record.

No new matter is entered, and these claims are within the previously restricted subject-matter of Group II, portable device for capturing records.

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CONCLUSION

In view of the above, Applicants believe all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

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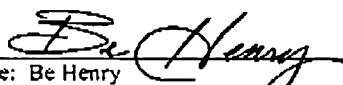
Respectfully submitted,



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CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 703-872-9306 on this 22nd day of February, 2005.

By 
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